British Columbia Ferry Commission

Annual Report
for the Fiscal Year Ending
March 31, 2013

Prepared and submitted in accordance with
Section 53 of the Coastal Ferry Act
of the Province of British Columbia

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August 31st 2013

To the Lieutenant Governor in Council

Victoria, BC
August 31st 2013

May It Please Your Honour:

BC Ferry Commission Annual Report
For the Fiscal Year Ending March 31, 2013

I am pleased to submit to you the tenth Annual Report of the BC Ferries Commissioner.

As required by section 53 of the *Coastal Ferry Act*, this annual report sets out briefly all applications and requests for decisions to the commissioner under the Act, all orders issued by the commissioner, the financial statements applicable to the Office of the Commissioner and the opinions of the commissioner as to whether the BC Ferry Authority and the ferry operator have performed their respective obligations under the Act, and, in the case of the ferry operator, whether it has also performed its obligations under the Coastal Ferry Services Contract.

Yours truly,

Gord Macatee
BC Ferries Commissioner

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Message from the Commissioners

This is the tenth annual report of the commissioners and has been prepared in accordance with Section 53 of the *Coastal Ferry Act* (the "Act"). The report covers all major decisions, orders and reports issued by the commissioners during the fiscal year ended March 31, 2013 ("FY 2013") and the financial statements of the Office of the Commissioner. The report includes the commissioners' opinion on the performance of British Columbia Ferry Services Inc. ("BC Ferries" or "the ferry operator") relative to its obligations under the Act and the Coastal Ferry Services Contract. The report also includes the commissioners' opinion on the performance of the BC Ferry Authority relative to its statutory obligations under the Act.

As reported in last year's annual report, the commissioners conducted a review of the Act and on January 24, 2012 submitted a report to the Minister of Transportation and Infrastructure recommending possible changes to the Act which would better enable the balancing of the interests of ferry users, taxpayers and the financial sustainability of the ferry operator. The Act was subsequently amended by Bill 47 which incorporated many of the recommendations made by the commissioners in their report. The amendments to the Act under Bill 47 came into force on June 25, 2012.

Applications and Requests for Decisions, Orders and Reports

The following were the major decisions, orders and reports of the commissioners during FY 2013:

Order 12.02 – October 1, 2012

Under section 40 of the Act, the commissioner sets the final price cap increases for the balance of the third performance term as follows:

- 4.1 per cent effective April 1, 2013;
- 4.0 per cent effective April 1, 2014; and
- 3.9 per cent effective April 1, 2015.

Under this order BC Ferries is required to achieve efficiencies totaling $54.2 million during the third performance term.

Order 12.03 – October 1, 2012

Pursuant to section 41.1 of the Act, the commissioner sets the terms and conditions for fuel deferral accounts and for temporary surcharges or rebates. BC Ferries is authorized to manage fuel deferral account balances within certain limits and must give 15 days public notice for any fuel surcharges or increases in fuel surcharges. Fuel surcharges on northern routes must be approved by the commissioner.

Order 12.04 – October 1, 2012

Under section 55 of the Act, the commissioner establishes the criteria for major capital expenditures. Under this order, a major capital expenditure is defined as any capital expenditure which exceeds $30 million, inclusive of component programs and interest during construction, and irrespective of the level of expenditure, any new vessel or terminal, and any vessel life extension which extends the life of the vessel by more than five years.

In addition, upgrades to information technology systems in excess of $5 million which support ticketing and reservations are considered a major capital expenditure.

Order 12-03A – February 28, 2013

Under section 41.1 of the Act, the commissioner changes the reporting timeline for the submission of plans and information relating to fuel consumption by the ferry operator. Under this order, a fuel strategies report is due 90 days after each year end of the ferry operator.

Performance of BC Ferries and the BC Ferry Authority

Key Findings for FY 2013 on BC Ferries' Performance

- Complied with price cap increase of 4.15 per cent for all routes.
- Achieved operating cost efficiencies in excess of $31 million.
- Met or exceeded frequency and capacity of sailings required in the Coastal Ferry Services Contract.
- Delivered 84,113.5 round trips compared to 83,291.5 required under the CFSC.
- Cancelled 278.5 scheduled round trip sailings primarily due to weather, mechanical failure or regulatory issue but provided 1,100.5 extra sailings in total.
- Provided capacity to carry the traffic with overall capacity utilization on the designated routes ranging from 20.2 per cent to 72.2 per cent.
- Improved on-time performance to 92.3 per cent system wide, and maintained high levels of reliability and customer satisfaction.

The commissioners have carried out detailed analyses and reviews of all quarterly reports from BC Ferries as well as their annual report to the commissioner for the fiscal year ended March 31, 2013. The commissioners have also continuously monitored BC Ferries' operations and received satisfactory responses from BC Ferries to all follow-up queries.

Based on our reviews and monitoring, the commissioners are satisfied that during FY 2013, *BC Ferries met all of its obligations under the Coastal Ferry Act and also met all of its obligations under the Coastal Ferry Services Contract (CFSC) with the provincial government. As required under the CFSC, the company provided the core service levels on all regulated routes.* BC Ferries also conducted the annual customer satisfaction survey as required under the CFSC.

In addition, based upon a review of BC Ferry Authority's submission to the commissioner, the commissioners are also satisfied that *the BC Ferry Authority performed all of its obligations under the Act during FY 2013.*

Gord Macatee
BC Ferries Commissioner

Sheldon Stoilen
Deputy BC Ferries Commissioner

August 31, 2013

The Role of the Commission in FY 2013

Regulatory Principles for the BC Ferry Commission
Coastal Ferry Act, s 38 as amended

(a) the primary role of the commissioner is to balance, in the manner the commissioner considers appropriate, the interests of ferry users, taxpayers and the financial sustainability of ferry operators;

(b) ferry operators are to be encouraged to adopt a commercial approach to ferry service delivery;

(c) ferry operators are to be encouraged to seek additional or alternative service providers on designated ferry routes through fair and open competitive processes; and

(d) ferry operators are to be encouraged to be innovative and to minimize expenses without adversely affecting their safe compliance with core ferry services.

The **BC Ferry Commission** regulates ferry operators under the *Coastal Ferry Act* of 2003 as amended by subsequent legislation. The Province appoints the commissioner and up to two deputy commissioners (collectively referred to as the "commissioners") as statutory officers for six to eight-year terms. They are independent of both the government and of ferry operators. Gord Macatee of Victoria BC was appointed commissioner on May 1, 2011 for a six-year term expiring on April 30, 2017. Sheldon Stoilen of Bowen Island was appointed deputy commissioner in June 2008 for a six-year term expiring on June 30, 2014.

The commissioners are independent officers of the legislature and may be terminated only for mental infirmity, conviction for an indictable offence under Canada's criminal code, or a judicial finding of conflict of interest or material breach of duties or obligations. Decisions or orders of the commissioners cannot be appealed, except on a question of law.

The commissioner is not an ombudsperson acting to resolve any private disputes with ferry operators. Furthermore, the commissioner is not responsible for regulating safety or environmental impacts of ferry operations.

Under a long-term contract with the Province, BC Ferries must operate its system to provide defined **minimum core service levels** on each of the 25 routes. On three routes, called **major routes,** which are financially self-sufficient, BC Ferries receives no subsidy. On the other 22 routes, the government pays BC Ferries a subsidy or **ferry transportation fee** per-round trip sailing.

Regulation of Ferry Fares

The primary responsibility of the commissioner is to **regulate ferry fares**. The commissioner sets a ceiling or "price cap" on the weighted average level of fares which BC Ferries can charge. The goal in setting the price cap is to balance the interests of ferry users and taxpayers with the financial sustainability of the ferry operator.

The price caps are reset after every fourth year. Each four-year[1] period is termed a "performance term." For the third performance term which runs from April 1, 2012 to March 31, 2016 there is one price cap which applies to all routes. In his quarterly monitoring of price cap compliance, the commissioner ensures that the weighted average of fares does not exceed the price cap. If it does, the commissioner may order the operator to take corrective action, e.g. reducing fares.

Regulation of Service Quantity

In overseeing the amount or **quantity of service** provided by BC Ferries, the commissioner monitors adherence of BC Ferries to the terms of its service contract with the Province. The commissioner verifies that the number of sailings on each route are, at a minimum, equal to those required in the service contract, subject to an allowance for cancelled sailings for certain reasons (e.g. bad weather).

Monitoring of Service Quality

The commissioner tracks BC Ferries' regular reports of its on-time performance, and the number of "overload" sailings which depart leaving customers behind in the waiting area. The commissioner also reviews the annual customer satisfaction survey which BC Ferries is contractually obligated to carry out using an outside polling firm.

Regulation of Unfair Competitive Advantage

If BC Ferries is operating a business or offering a service where there is external competition, the commissioner has the authority to ensure that BC Ferries does not have an unfair competitive advantage. If the commissioner finds that BC Ferries does have an unfair competitive advantage, the commissioner must order BC Ferries to either (1) provide the service through an Alternate Service Provider, or (2) charge at least a commissioner-specified minimum tariff for the service. By Order 11-01, the commissioner ruled that BC Ferries has an unfair competitive advantage with respect to its drop trailer business and ordered it to charge a minimum tariff as set by the commissioner. An appeal of this order by Seaspan Ferries

[1] Except for the First Performance Term which was five years ending on March 31, 2008.

Corporation was dismissed by BC Court of Appeal on February 6, 2013.

Commission Probes and Performance Reviews

Overall, the commissioner is alert for information, either from its own observations or from the public, suggesting how performance, service quality, efficiency or productivity of ferry operations could be improved. The commissioner may decide to launch a probe or a performance review on any topic and the ferry operator is legally required to answer the commissioner's questions and comply with any resulting orders.

Activity Summary

Commissioner Activities in FY 2013

1. **Regulation of Ferry Fares**
   - confirmed weighted average fares were within price caps during the year
2. **Regulation of Service Levels**
   - confirmed that BC Ferries delivered contracted round-trips under the CFSC
3. **Regulation of Unfair Competitive Advantage**
   - no activity
4. **Special Decisions**
   - set price caps for the last three years of the third performance term
   - authorized establishment of fuel deferral accounts
   - established criteria for major capital expenditures which must be approved by the commissioner
5. **Enforcement**
   - monitored BC Ferries overall compliance with and reporting requirements under the Act
6. **Publication and Outreach**
   - maintained records, published decisions, and communicated with the public and stakeholders
   - attended meetings with various stakeholder groups
7. **Administration and Reporting**
   - made arrangements for part-time office with support services

The commissioner's activities fall under seven **headings** shown on the left. These headings are taken from the commission's Service Plan and Budget for the year ending March 31, 2013. The core ongoing activities are **regulating ferry fares** through the price cap mechanism, and **regulating service levels**.

There was no activity in FY 2013 for **regulating unfair competitive advantage**.

Special decisions include approval of major capital expenditures of which there were none during the year. Special decisions also include consideration of opportunities for possible alternate service providers. There was no activity in this area during the year.

There was no activity in FY 2013 for **enforcement** as BC Ferries was found to be compliance with its obligations under the *Coastal Ferry Act* and the Coastal Ferry Services Contract.

Two further activity areas were to keep the public informed about the commissioner's role and activities (**Publication and Outreach** and **Administration and Reporting** requirements). In publication and outreach, the commissioners invited public comments on the proposed criteria for major capital expenditures and commission policy for performance reviews.

In the area of administration, the commissioners issued a Request for Qualifications on March 21, 2013 for professional consulting services. As a result of this RFQ, a number of highly qualified consultants have been placed on the commission's approved list of vendors in areas of project evaluation, financial management evaluation, naval architecture and transportation econometrics.

Average Fare Levels

The table on the next page provides values of a price cap index compared to an index of actual weighted average fares for each of three route groups in the BC Ferries system (price cap index was reset at 100 effective the beginning of the third performance term on April 1, 2012).

The values for the indices are computed by methods laid down in Commission Order 05-01 and Order 11-03 and are based on trailing four-quarter data.

As provided under the Act, the commissioner allows BC Ferries to exceed the price cap (highlighted in yellow) for no more than three consecutive quarters. This ensures that the company does not retain revenues earned at above-price cap levels.

The table on the following pages shows that BC Ferries did not exceed the price cap for more than three quarters on any route group during FY 2013. Accordingly, the company was in compliance with the price caps for the three route groups during the year.

BCFerries

Average Fare Index Summary

		PT2				PT3				
Route Group		**Jun/2011**	**Sep/2011**	**Dec/2011**	**Mar/2012**	**Mar/2012**	**Jun/2012**	**Sep/2012**	**Dec/2012**	**Mar/2013**
New Majors										
	Cap	**143.16**	**144.80**	**145.87**	**146.74**	**100.00**	**101.02**	**102.45**	**103.37**	**104.15**
	Actual	142.20	144.39	145.68	147.78	100.00	100.54	101.85	102.75	103.40
Route 3										
	Cap	**165.14**	**168.69**	**171.11**	**173.22**					
	Actual	158.48	160.07	162.00	163.71					
Northern										
	Cap	**169.76**	**176.27**	**177.34**	**178.30**	**100.00**	**100.98**	**103.31**	**103.76**	**104.15**
	Actual	162.08	164.34	165.76	166.04	100.00	99.51	99.78	99.76	99.84
Minors										
	Cap	**171.95**	**175.82**	**178.26**	**180.39**	**100.00**	**101.06**	**102.46**	**103.36**	**104.15**
	Actual	166.20	167.71	169.69	171.57	100.00	100.65	101.70	102.42	103.23

Price cap and weighted average fare indices are calculated in accordance with Commission orders 05-01 and 11-03.

Annual price cap increases are the same for all route groups but may differ on a quarterly basis as they are phased in based on seasonality of traffic flows and revenues for each route group.

Financial Statements

Accounting Services

The Ministry of Justice provides accounting and payment services at no cost to the commission. The summary financial statement is based upon information provided by the ministry.

Summary Financial Statement

BC Ferry Commission
Summary Financial Statement
(in $ thousands)

	FY 2013 Budget	FY 2013 Actual	FY 2012 Actual
Expenditures			
Commissioners' Fees and Expenses	261	232	137
Professional Services and Other	278	100	145
Office Expenses	17	1	27
Total Expenditures	556	333	309

Budgeted Expenditures

The *Coastal Ferry Act* requires ferry operators to cover the expenses associated with the operation of the Office of the Commissioner. Under section 59(2) of the Act (prior to Bill 47) the budget for the Office of the Commissioner must not exceed the total of the following:

(a) for each quarter, if any, of that fiscal year in which the commissioner is to take any action under section 40, 1/20 of 1 per cent of the previous year's tariff revenue;
(b) for every other quarter of that fiscal year, 1/40 of 1 per cent of the previous year's tariff revenue.

Section 40 of the Act concerns the establishment of price caps for subsequent performance terms. The commission was active under section 40 during FY 2013 for two quarters and therefore the maximum budget was $686,000 based on BC Ferries' tariff revenue of $457 million for FY 2012.

Actual Expenditures

Actual expenditures in FY 2013 were $333,000, or less than one half of the budget maximum. Expenditures were for commissioners' fees and expenses and for the cost of consultants engaged to assist and advise the commissioners. Professional services were under budget due to timing differences in connection with an anticipated section 55 application and planned performance reviews.

Commissioners' Remuneration

The commissioner and deputy commissioner are paid a per-diem fee for their services. The commissioner received $123,647 in fees for his services and was reimbursed $3,352 for travel and other expenses. The deputy commissioner received $92,165 in fees for his services and was reimbursed $12,496 for travel and other expenses incurred in the period.